

1 H. JAMES MAGNUSON
2 Attorney at Law
3 P.O. Box 2288
Coeur d'Alene, Idaho 83814
(208) 666-1596

81

4 Attorney for Trustee

5

UNITED STATES BANKRUPTCY COURT

6

DISTRICT OF IDAHO

7

| | | |
|-------------------------|---|--------------------------|
| 8 In Re: |) | Case No. 95-03264-7 |
| |) | |
| 9 LAKE CITY R.V., INC., |) | TRUSTEE'S STATEMENT |
| |) | REGARDING ERICKSON CLAIM |
| 10 Debtor, |) | |
| 11 _____ |) | |

12 COMES NOW Ford Elsaesser, Trustee, by and through
13 H. JAMES MAGNUSON, his attorney of record, and in response to the
14 Court regarding claims against the Ericksons states as follows:

- 15 1. The Trustee reviewed the Statement of Financial Affairs
16 of the Debtor. The Statement indicated a transfer to
17 Dave and Audrey Erickson on July 19, 1995. According to
18 the statement, land, equipment and a canopy business
19 with a net value of \$21,966.95 was transferred. Based
20 upon the Statement any such transfer would not be an
21 avoidable preferential transfer under 11 U.S.C.
22 §547(b)(4).
- 23 2. The Trustee obtained and reviewed checks from the Lake
24 City R.V. business account. Five checks were written to
25 Audrey Erickson dated within the 90-day preference
26 period. On August 22, 1996 the Trustee's lawyer wrote
27 Erickson regarding information for the five payments.
28 Audrey Erickson replied by letter dated August 27, 1996.

105

1 Based upon information obtained, the Trustee elected not
2 to pursue a claim on these transfers as a portion of the
3 transfers were for payment of rent to Erickson for the
4 Debtor's business, payment on a note which appeared in
5 the ordinary course of business, payment on what
6 appeared to be secured debt and payment under another
7 financial arrangement which amounts were not
8 significant.

9 3. The Trustee was recently made aware of allegations that
10 property including canopy units, camper units, parts and
11 inventory were transferred by the Debtor to the
12 Ericksons several weeks before the Debtor filed. The
13 Trustee did not discover these transfers in earlier
14 administration of the estate or in reviewing the paucity
15 of records obtained by the Trustee after the Debtor
16 filed. It is the Trustee's position that the transfers
17 to the Ericksons should be credited against the claim of
18 the Ericksons. Based upon Trustee's experience with the
19 Ericksons in this proceeding, it is expected that any
20 preferential claim would be fully litigated. Any claim
21 would be subject to defenses including 11 U.S.C.
22 §546(a)(1). Assuming that the Trustee prevailed in
23 obtaining a judgment in the range of \$30,000.00, any
24 benefit, would accrue primarily to the largest unsecured
25 creditor which is the Ericksons assuming the Gales
26 unsecured claim is invalid. In light of the hazards
27 attendant with litigation as well as costs, creditors
28

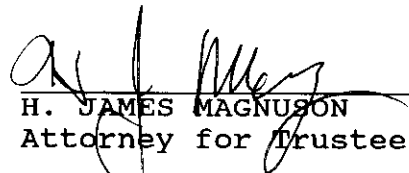
1 would be served better by moving to close the estate and
2 distribute the substantial recoveries made.

3 DATED this 13 day of April, 2000.

4

5

6


H. JAMES MAGNUSON
Attorney for Trustee

7

CERTIFICATE OF MAILING

8

9

I hereby certify that a true and correct copy of the
foregoing TRUSTEE'S STATEMENT REGARDING ERICKSON CLAIM was mailed
by first class prepaid mail on the 13 day of April, 2000 to:

10

Mr. Malcolm Dymkoski
Attorney at Law
111 N. 2nd, Ste 202
Coeur d'Alene, Idaho 83814

12

13

Dave and Audrey Erickson
W. 8224 Stach Rd
Coeur d'Alene, Idaho 83814

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

